

UNITED STATES DISTRICT COURT

# DISTRICT OF NEVADA

DARYL E. SAYLES a.k.a. DARRYL E.  
GHOLSON,

Case No. 2:18-cv-01007-GMN-VCF

## ORDER

**Plaintiff**

v.

**STATE OF NEVADA et al.,**

## Defendants

This action is a *pro se* civil rights complaint filed under 42 U.S.C. § 1983 by a former state prisoner. Plaintiff has submitted an application to proceed in district court without prepaying fees or costs following his release from prison. (ECF No. 24). Based on the financial information provided, the Court grants Plaintiff leave to proceed without prepayment of fees or costs under 28 U.S.C. § 1915(a)(1).<sup>1</sup>

On August 5, 2019, the Court entered a screening order. (ECF No. 4). The screening order imposed a 90-day stay and the Court entered a subsequent order assigning the case to mediation by a court-appointed mediator. (ECF Nos. 4, 11). The Office of the Attorney General has filed a status report indicating that settlement was not reached and informing the Court of its intent to proceed with this action. (ECF No. 27).

The Court dismisses the motion for entry of clerk's default (ECF No. 17) as premature. This case is in the pre-service stage. The Court also denies the motion for sanctions (ECF No. 18).

**IT IS THEREFORE ORDERED** that:

1. Plaintiff's application to proceed in district court without prepaying fees or costs (ECF No. 24) is **GRANTED**.
  2. Plaintiff is permitted to maintain this action to conclusion without the necessity of prepayment of any additional fees or costs or the giving of security therefor.

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<sup>1</sup> Plaintiff is not subject to the requirements of 28 U.S.C. § 1915(a)(2), (b) because he is no longer a “prisoner” within the meaning of the statute. See 28 U.S.C. § 1915(h).

1 This order granting leave to proceed in district court without prepaying fees or costs will  
2 not extend to the issuance and/or service of subpoenas at government expense.

3       3. The Clerk of the Court will electronically **SERVE** a copy of this order and a  
4 copy of Plaintiff's complaint (ECF No. 5) on the Office of the Attorney General of the State  
5 of Nevada, by adding the Attorney General of the State of Nevada to the docket sheet.  
6 This does not indicate acceptance of service.

7       4. Service must be perfected within ninety (90) days from the date of this order  
8 pursuant to Fed. R. Civ. P. 4(m).

9       5. Subject to the findings of the screening order (ECF No. 4), within **twenty-**  
10      **one (21) days** of the date of entry of this order, the Attorney General's Office will file a  
11      notice advising the Court and Plaintiff of: (a) the names of the defendants for whom it  
12      accepts service; (b) the names of the defendants for whom it does not accept service,  
13      and (c) the names of the defendants for whom it is filing the last-known-address  
14      information under seal. As to any of the named defendants for whom the Attorney  
15      General's Office cannot accept service, the Office will file, *under seal*, but will not serve  
16      the inmate Plaintiff the last known address(es) of those defendant(s) for whom it has such  
17      information. If the last known address of the defendant(s) is a post office box, the Attorney  
18      General's Office will attempt to obtain and provide the last known physical address(es).

19       6. If service cannot be accepted for any of the named defendant(s), Plaintiff  
20 will file a motion identifying the unserved defendant(s), requesting issuance of a  
21 summons, and specifying a full name and address for the defendant(s). For the  
22 defendant(s) as to which the Attorney General has not provided last-known-address  
23 information, Plaintiff will provide the full name and address for the defendant(s).

24       7. If the Attorney General accepts service of process for any named  
25 defendant(s), such defendant(s) will file and serve an answer or other response to the  
26 complaint (ECF No. 5) within **sixty (60) days** from the date of this order.

1       8. Henceforth, Plaintiff will serve upon defendant(s) or, if an appearance has  
2 been entered by counsel, upon their attorney(s), a copy of every pleading, motion or other  
3 document submitted for consideration by the Court. Plaintiff will include with the original  
4 document submitted for filing a certificate stating the date that a true and correct copy of  
5 the document was mailed or electronically filed to the defendants or counsel for the  
6 defendants. If counsel has entered a notice of appearance, Plaintiff will direct service to  
7 the individual attorney named in the notice of appearance, at the physical or electronic  
8 address stated therein. The Court may disregard any document received by a district  
9 judge or magistrate judge which has not been filed with the Clerk, and any document  
10 received by a district judge, magistrate judge, or the Clerk which fails to include a  
11 certificate showing proper service.

12 9. This case is no longer stayed.

13 10. The motion for entry of clerk's default (ECF No. 17) is denied as premature.

11. The motion for sanctions (ECF No. 18) is denied.

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16 DATED THIS 18<sup>th</sup> day of November 2019.

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*Carl Gaddis*

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**UNITED STATES MAGISTRATE JUDGE**

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